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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-sixth session
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Mr. Decaux, Mr. El-Hajjé, Mrs. Forero Ucros,
Mr. Hatano and Mr. Hakim: draft resolution

Discrimination in the context of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Mindful that respect for the principle of non-discrimination is the key to the protection and realization of fundamental human rights and freedoms as recognized and protected by international standards,

Convinced that discrimination against any person on the grounds of AIDS or HIV infection, actual or presumed, violates fundamental human rights and freedoms,

Alarmed at discriminatory laws and policies and the emergence of new forms of discriminatory practices which deny people with HIV infection or AIDS, their families and associates, as well as those presumed to be infected or at risk of infection, enjoyment of their fundamental rights and freedoms,

Concerned that lack of full enjoyment of their fundamental rights by persons suffering from economic, social or legal disadvantage heightens their vulnerability to the risk of HIV infection,

Noting that, according to a report submitted to the Commission on the Status of Women at its thirty-third session (E/CN.6/1989/6/Add.1), women are especially vulnerable to the risk of HIV infection and to the economic and social impact of AIDS as a result of their disadvantaged social, legal and economic status,

Concerned that evidence indicates that other groups in society suffering indiscrimination in the enjoyment of their fundamental rights and freedoms, notably indigenous peoples, minorities, street children and other children with inadequate care and those living in poverty and social disadvantage, are also more vulnerable to the risk of infection as a result of disadvantage in access to education, health care and social services, and that they suffer disproportionately from the economic and social consequences of the pandemic,

Concerned also that the fear and ignorance surrounding AIDS are leading to increased stigmatization of and prejudice against people with HIV and AIDS and members of particular groups in society resulting, in some countries, in increasing violence against such individuals, arbitrary detention and deportation,

Recalling Commission on Human Rights resolution 1994/49 of 4 March 1994 in which the Commission called upon all States to ensure respect for human rights in the context of AIDS and to ensure full enjoyment of all rights by people with HIV and AIDS, their families and those associated with them, and to take measures to combat social stigmatization and discrimination,

Bearing in mind World Health Assembly resolution WHA.45.35 of 14 May 1992 in which the Assembly recognized that there was no public health rationale for any measures that limit the rights of the individual, notably measures establishing mandatory screening, and called upon States to reinforce efforts to oppose discrimination against persons and specific groups known to be or suspected of being infected with HIV,

Recognizing that measures to combat discrimination and social stigma form an essential part of an effective public health strategy,

Welcoming the decision of the Economic and Social Council, contained in its resolution 1994/24 of 26 July 1994, endorsing the establishment of a joint and co-sponsored United Nations programme on HIV/AIDS,

1. Confirms that discrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards, and that the term "or other status" in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS;

2. Calls upon all States to review their laws, policies and practices in the context of HIV and AIDS in order to ensure that they respect human rights standards, including the prohibition of AIDS-related discrimination, and to take all the necessary steps, including the introduction of protective legislation and appropriate education, to combat discrimination, prejudice and stigma, and to ensure the full enjoyment of civil, political, economic, social and cultural rights by people with HIV and AIDS, their families and those associated with them, and people presumed to be at risk of infection;

3. Also calls upon all States to strengthen their efforts to advance the legal, economic and social status of women, children and indigenous peoples, as well as of minorities and other groups suffering discrimination in the enjoyment of their rights, in order to render them less vulnerable to the risk of HIV infection and to the adverse socio-economic consequences of the AIDS pandemic;

4. Commends the Working Group on Contemporary Forms of Slavery for giving attention to protecting children from the risk of HIV infection resulting from sexual exploitation;

5. Requests the Commission on Human Rights to consider recommending the organization by the Centre for Human Rights of a second international expert consultation on human rights and AIDS, with particular emphasis on the prevention of AIDS-related discrimination and stigma;

6. Also requests the Commission on Human Rights to consider the appropriate methods by which to keep under continuous review the protection of the rights of people affected by AIDS-related discrimination;

7. Welcomes the request by the Commission on Human Rights to the Secretary-General to submit to the Commission at its fifty-first session a report

on international and domestic measures taken to protect human rights and prevent discrimination in the context of HIV/AIDS, and recommends that this report consider the development of a declaration on respect for human rights in the response to AIDS and guidelines for the prevention of AIDS-related discrimination;

8. Also welcomes the report of the Secretary-General on developments in the United Nations system concerning HIV and AIDS, in particular the progress made in establishing a joint and co-sponsored United Nations programme on HIV/AIDS (E/CN.4/Sub.2/1994/8), and requests the co-sponsors of the future programme to integrate a strong human rights component into the programme's strategies and work;

9. Requests the Secretary-General to bring the present resolution to the attention of the relevant United Nations agencies and bodies, including working groups and special rapporteurs, as well as the treaty monitoring bodies, and urges all relevant bodies and procedures to consider the impact of AIDS-related discrimination within the context of their mandates and to include consideration of this issue in their reports;

10. Decides to keep the issue of AIDS-related discrimination under continuous review, and to give consideration to this issue under all relevant items of its agenda as well as in the work of its relevant working groups and special rapporteurs.